

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**D.A., A.A., and LUCINDA DEL
CARMEN PADILLA GONZALES,
Plaintiffs,**

v.

**UNITED STATES OF AMERICA,
Defendant.**

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EP-22-CV-00295-FM

JOINT MOTION TO AMEND SCHEDULING ORDER

Plaintiffs D.A. and A.A. and their mother, Lucinda del Carmen Padilla-Gonzales, by their attorneys, and Defendant the United States of America, by its attorneys, hereby jointly move to amend the scheduling order, stating in support as follows:

1. After this case was transferred from the Northern District of Illinois to this District, Defendant filed a motion to dismiss. That motion was granted in part and denied in part in this Court's March 23, 2023 Order. Dkt. 126.

2. The parties immediately began conferring about discovery, including with regard to protective orders, and the timeline for the completion of discovery. Based on those conversations, the parties submitted a joint proposed scheduling order with a one-year discovery period, with fact discovery closing on February 21, 2024 and all discovery closing on June 17, 2024. Dkt. 133.

3. The parties' proposed schedule was intended to account for the time it takes to obtain documents from the federal government, the fact that responsive material is held in various locations, the voluminous nature of the document production to be reviewed by the parties, and the numerous witnesses to be deposed in various locations around the country.

4. The Court subsequently issued its scheduling order, setting a fact discovery

deadline of October 16, 2023. Dkt. 137.

5. The parties have been working diligently to make progress in this matter. The parties have exchanged Rule 26(a)(1) disclosures, the Government has made an initial production of records, and the parties have initiated settlement discussions.

6. However, despite the parties' efforts, the completion of fact discovery is not feasible on the current schedule. For example, in response to Plaintiff's initial set of written discovery, the Government has requested a 30-day extension until August 1 to respond and to provide an initial production of documents, with a rolling production to continue through at least September.

7. For these reasons, the parties jointly request that the Court enter a schedule consistent with the parties' joint proposed schedule, Dkt. 133, as follows:

- A report on alternative dispute resolution in compliance with Rule CV-88 shall be filed by **September 10, 2023**.
- The parties shall file all motions to amend or supplement pleadings or to join additional parties by **October 27, 2023**.
- All fact discovery shall be completed by **February 21, 2024**. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting or expert disclosure deadline will be vacated because of information obtained in post-deadline fact discovery.
- All parties asserting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) by **March 21, 2024**. Parties resisting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the

materials required by Federal Rule of Civil Procedure 26(a)(2)(B) by **May 15, 2024**. All designations of rebuttal experts shall be filed within **30** days of receipt of the report of the opposing expert.

- An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than **30** days of receipt of the written report of the expert's proposed testimony, or not later than **30** days of the expert's deposition, if a deposition is taken, whichever is later.
- The parties shall complete all discovery on or before **June 17, 2024**. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.
- All dispositive motions as defined in Rule CV-7(c) shall be filed no later than **August 15, 2024**.

8 The parties respectfully request that the Court reset the trial date from March 24, 2024, to a date convenient for the Court that is consistent with the proposed schedule above.

Respectfully submitted,

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Date: 7/7/23

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UNITED STATES DISTRICT COURT
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JOINT PROPOSED AMENDED SCHEDULING ORDER

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following

Amended Scheduling Order:

1. A report on alternative dispute resolution in compliance with Rule CV-88 shall be filed by **September 10, 2023**.

2. The parties shall file all motions to amend or supplement pleadings or to join additional parties by **October 27, 2023**.

3. All fact discovery shall be completed by **February 21, 2024**. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting or expert disclosure deadline will be vacated because of information obtained in post-deadline fact discovery.

4. All parties asserting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) by **March 21, 2024**. Parties resisting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) by **May 15, 2024**. All designations of rebuttal experts shall be filed within **30** days of receipt of the report of the opposing expert.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than **30** days of receipt of the written report of the expert's proposed testimony, or not later than **30** days of the expert's deposition, if a deposition is taken, whichever is later.

6. The parties shall complete all discovery on or before **June 17, 2024**. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions as defined in Rule CV-7(c) shall be filed no later than **August 15, 2024**.

8. This case is set for trial [docket call] on _____ at _____ .m. The parties should consult Rule CV-16 regarding matters to be filed in advance of trial.

SIGNED this _____ day of _____ 2023.

FRANK MONTALVO
SENIOR U.S. DISTRICT JUDGE